

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ERNESTO LOPEZ, : : 23cv2950 (DLC)
Petitioner, : : ORDER
-v- :
RESIDENTIAL REENTRY MANAGER, :
Respondent. :
-----X

DENISE COTE, District Judge:

On October 20, 2022, Ernesto Lopez filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 in the Eastern District of New York. On April 7, 2023, the petition was transferred to the Southern District of New York, and on April 10, assigned to this Court. Through this petition, Lopez challenges his conviction in this district.

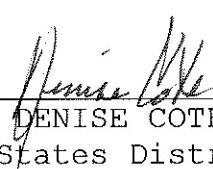
On July 2, 2019, Lopez was sentenced, following his conviction at trial, principally to a term of imprisonment of 60 months. Lopez filed a notice of appeal, but on July 25, 2019, the Court of Appeals granted his motion to withdraw the appeal. Lopez contends in his petition that the Supreme Court's decision in Ruan v. United States, 142 S. Ct. 2370 (2022), requires that his conviction be vacated due to the Court's failure to charge the jury in accordance with the law set forth in Ruan.

Finding that it may be appropriate to consider this petition as properly filed under § 2241 pursuant to the savings clause of subsection (e) to § 2255, see Dhinsa v. Krueger, 917 F.3d 70, 81 (2d Cir. 2019), it is hereby

ORDERED that the Government shall file its response to this petition by May 26, 2023. Any response by Lopez is due June 23, 2023.

IT IS FURTHER ORDERED that the Clerk of Court shall mail a copy of this Order to Lopez and note service on the docket.

Dated: New York, New York
April 12, 2023


DENISE COTE
United States District Judge